

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VII  
EXPEDITED RCRA SETTLEMENT AGREEMENT**

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Docket No. RCRA-07-2001-0018

Inspection Date: December 5, 2000

Rogers Post and Lumber (Respondent), violated the standards applicable to treatment facilities pursuant to Section 3005 of the Solid Waste Disposal Act, 42 U.S.C. § 6925, commonly referred to as the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, and Mo. Rev. Stat. § 260.390.1(1)(2000) as noted on the attached FINDINGS AND ALLEGED VIOLATIONS FORM (Form), which is hereby incorporated by reference.

If the Respondent does not sign and return this Expedited Settlement as presented within 30 days of the date of its receipt, the proposed Expedited Settlement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violations identified in the Form.

The parties are authorized to enter into this Expedited Settlement under the authority vested in the Administrator of EPA by Section 3008 of RCRA, 42 U.S.C. § 6928. The parties enter into this Expedited Settlement in order to settle the civil violations described in the Form for a penalty of \$2,506. This settlement is subject to the following terms and conditions:

EPA finds the Respondent's conduct is subject to Section 3005 of RCRA and Mo. Rev. Stat. § 260.390.1(1)(2000). For the purposes of this Agreement, Respondent admits it is subject to the statutes and regulations cited herein and that EPA has jurisdiction over the Respondent and the Respondent's conduct as described in the Form. Respondent neither admits nor denies the factual allegations contained in this Agreement, and waives any objections it may have to EPA's

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ENVIRONMENTAL PROTECTION  
AGENCY REGION VII  
REGIONAL HEARING CLERK

jurisdiction. Respondent consents to the assessment of the penalty stated above. Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that it is subject to the standards applicable to wood treaters and that the violations are being corrected.

The Respondent further certifies that a certified check in the amount of \$2,506, payable to the "United States Treasury" has been mailed to EPA-Region VII, c/o Mellon Bank, P.O. Box 360748M, Pittsburgh, Pennsylvania 15251, and has noted on the penalty payment check "EPA" and the docket number of this case RCRA-07-2001-0018.

#### **I. Respondent's Actions to Return to Compliance with the Hazardous Waste Regulations**

In addition to the payment of the penalty stated above, Respondent agrees, as a generator of hazardous waste subject to the requirements of 40 C.F.R. Parts 260-279; Mo. Rev. Stat. §§ 260.350 through 260.434 and 10 CSR 25, to take the following actions within the periods below:

(a) Upon the effective date of this Agreement, Respondent shall immediately cease all releases of the pentachlorophenol wood treatment preservative product and wastes, including but not limited to drippage, outside of the treatment unit in accordance with 10 CSR 25-7.265(1) and 10 CSR 25-7.265(2), referencing 40 C.F.R. § 265.31. Within thirty (30) days of the effective date of this Agreement, Respondent shall submit to EPA a certification and a detailed description of how Respondent has changed its operations and processes to cease all releases of pentachlorophenol wood treatment preservative product and wastes.

(b) Respondent shall immediately cease disposing in the general trash all pentachlorophenol (PCP)-contaminated scrap banding and gloves, pending completion of the

hazardous waste determination for these wastes, as required by paragraph (c), below.

(c) Within thirty (30) days of the effective date of this Agreement, Respondent shall make a hazardous waste determination in accordance with 10 CSR 25-5.262, referencing 40 C.F.R. § 262.11, on all solid waste streams generated by Respondent. Solid waste streams generated at wood treatment facilities include but are not limited to: sludge, waste preservative, wood chips, splinters, sand, sawdust, banding, gloves, personal protective equipment, storm water, waste water, etc. Within seven (7) days of making such a determination, Respondent shall submit to EPA documentation demonstrating that the determination has been performed. Each determination shall include documentation of the following:

1. A description of the process that generated the waste;
2. A determination of whether or not the waste has been excluded from regulation under 40 C.F.R. Part 261;
3. A determination of whether or not the waste has been listed in Subpart D of 40 C.F.R. Part 261; and
4. A determination of whether or not the waste is identified in 40 C.F.R. Part 261, Subpart C. To determine whether the waste fails any of the characteristics in Subpart C, the waste may need to be analyzed using the procedure set forth in Subpart C of 40 C.F.R. Part 261, or by applying knowledge of the waste characteristics based upon the material or processes used. If knowledge of the process is used, please provide a detailed explanation regarding the basis for this knowledge and your reasoning.

(d) Within sixty (60) days of the effective date of this Agreement, Respondent shall determine the facility's generator status based on the amount of hazardous waste generated in a calendar month or accumulated on-site at any one time. Respondent shall immediately manage all hazardous wastes in accordance with 10 CSR 25, based on the facility's generator status. Within seven (7) days of ascertaining the facility's generator status, Respondent shall submit to EPA such documentation showing the determination has been performed.

(e) If, at any time during the performance of any activities pursuant to this Agreement, Respondent's generator status changes from its current status as a conditionally exempt small quantity generator to that of a small quantity generator or large quantity generator, Respondent shall, within seven (7) days of such change in generator status, submit to EPA documentation showing that the facility has registered a modification to its generator notification filed with the Missouri Department of Natural Resources in accordance with 10 CSR 25-5.262(2)(A)1.A.

(f) Within sixty (60) days of the effective date of this Agreement, Respondent shall ship off-site all hazardous wastes that have been stored at the facility in excess of the time allowed based on Respondent's generator status. All hazardous wastes shall be shipped to a permitted hazardous waste treatment, storage and/or disposal facility. Respondent shall submit to EPA a copy of the manifest and Land Disposal Restriction notice forms within thirty (30) days of off-site shipment.

(g) For a period of one (1) year following the effective date of this Agreement, Respondent shall submit to EPA copies of all manifests and all Land Disposal Restriction notice forms within thirty (30) days of each shipment of hazardous waste from the facility.

(h) Within ninety (90) days of the effective date of this Agreement, Respondent shall submit to EPA a certification and a detailed description of how Respondent is conducting all wood treatment operations at the facility in compliance with the hazardous waste regulations found at 10 CSR 25, 40 C.F.R. § 262.34 and 40 C.F.R. Part 265 Subpart W, based on Respondent's generator status. (An explanation of these regulations can be found in the enclosed guidance document, "Wood Preserving Resource Conservation and Recovery Act Compliance Guide", June 1996.)

## **II. Site Characterization and Clean-up**

(a) *Site Characterization Work Plan and Report.* Respondent shall submit a Site Characterization Work Plan to EPA for review and approval, in accordance with the schedule in Appendix I. The Site Characterization Work Plan, as more fully described in Appendix II, shall include provisions for systematically sampling the Site, with specific attention to those areas where pentachlorophenol contamination is likely to be found based on past practices at the facility, including but not limited to the treatment area and storage yard area. Upon EPA approval of this Work Plan, Respondent shall implement the Work Plan in accordance with the schedule contained therein. The results of this work shall be submitted for EPA review and approval in a Site Characterization Report, in accordance with the schedule in Appendix I.

Based upon the information provided in the Site Characterization Report, and other information available to EPA, EPA will select a clean-up action or actions for the facility. EPA will provide written notice to Respondent of the clean-up actions and any performance standards and clean-up levels that are selected by EPA.

(b) *Clean-up Action Work Plan and Report.* If determined to be necessary by EPA, Respondent shall submit a Clean-up Action Work Plan for EPA review and approval, in accordance with the schedule in Appendix I. The Clean-up Action Work Plan, as more fully described in Appendix II, shall describe the procedures for conducting the clean-up actions as selected by EPA. Upon EPA approval of this Work Plan, Respondent shall implement the Work Plan in accordance with the schedule contained therein. The results of this work shall be submitted for EPA review and approval in a Clean-up Action Report, in accordance with the schedule in Appendix I.

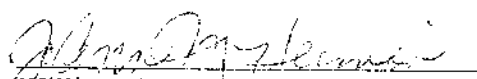
Respondent shall submit all documents required to be submitted pursuant to this Agreement, unless otherwise specified herein, to: Kevin Snowden, Environmental Scientist, ARTD/RESP, U.S. EPA Region VII, 901 North 5<sup>th</sup> Street, Kansas City, KS 66101.

After all compliance and clean up activities have been completed to EPA's satisfaction, and the penalty noted above has been paid, EPA will take no further civil action against the Respondent for the specific violations of Section 3005 of RCRA and Mo. Rev. Stat. § 260.390.1(1)(2000) described in the Form. However, EPA does not waive any rights to take any enforcement action for any other past, present or future violations by the Respondent of Section 3005 of RCRA or of any other federal statute or regulation. By its first signature, EPA ratifies the Findings and Alleged Violations set forth in the Form.

Upon signing and returning this Expedited Settlement to EPA, Respondent waives its right to contest the allegations in this Agreement and the opportunity for a hearing or appeal pursuant to Section 3008 of RCRA, and consents to EPA's approval of the Expedited Settlement without further notice.

This Expedited Settlement is binding on the parties signing below, and effective upon the Regional Judicial Officer's signature.

APPROVED BY EPA:

  
William A. Spratlin  
Director  
Air, RCRA and Toxics Division

Date: 4/21/02

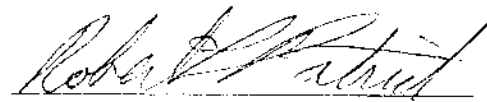
APPROVED BY RESPONDENT:

Name (print): Robert A. Hausenwright

Title (print): Owner Rogers Post & Lumber Co

Signature: Robert A. Hausenwright 12/04/02

IT IS SO ORDERED:

  
Robert Patrick  
Regional Judicial Officer

Date: December 10, 2012

ANAL. Calcd for  $C_{10}H_{12}O_2$ : C, 77.7%; H, 7.7%. Found: C, 77.5%; H, 7.6%. IR (KBr): 1715 (C=O), 1640 (C=C), 1610 (C=C), 1580 (C=C), 1540 (C=C), 1520 (C=C), 1490 (C=C), 1470 (C=C), 1450 (C=C), 1430 (C=C), 1410 (C=C), 1390 (C=C), 1370 (C=C), 1350 (C=C), 1330 (C=C), 1310 (C=C), 1290 (C=C), 1270 (C=C), 1250 (C=C), 1230 (C=C), 1210 (C=C), 1190 (C=C), 1170 (C=C), 1150 (C=C), 1130 (C=C), 1110 (C=C), 1090 (C=C), 1070 (C=C), 1050 (C=C), 1030 (C=C), 1010 (C=C), 990 (C=C), 970 (C=C), 950 (C=C), 930 (C=C), 910 (C=C), 890 (C=C), 870 (C=C), 850 (C=C), 830 (C=C), 810 (C=C), 790 (C=C), 770 (C=C), 750 (C=C), 730 (C=C), 710 (C=C), 690 (C=C), 670 (C=C), 650 (C=C), 630 (C=C), 610 (C=C), 590 (C=C), 570 (C=C), 550 (C=C), 530 (C=C), 510 (C=C), 490 (C=C), 470 (C=C), 450 (C=C), 430 (C=C), 410 (C=C), 390 (C=C), 370 (C=C), 350 (C=C), 330 (C=C), 310 (C=C), 290 (C=C), 270 (C=C), 250 (C=C), 230 (C=C), 210 (C=C), 190 (C=C), 170 (C=C), 150 (C=C), 130 (C=C), 110 (C=C), 90 (C=C), 70 (C=C), 50 (C=C), 30 (C=C), 10 (C=C).

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## REMARK

PAY TO THE  
ORDER OF UNITED STATES TREASURY

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VOID AFTER 60 DAYS

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**FIRST COMMUNITY**  
National Bank



Simone, Jo	473 271 7151
Stuart	573 845 3545
Sullivan	573 468 3141
Wagner	573 422 4792
Wills	573 426 3262

"EPA" # RCRA-07-2001-0018

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Two Signatures Required

TWO SIGNATURES REQUIRED.



IN THE MATTER OF Rogers Post and Lumber, Respondent  
Docket No. RCRA-07-2001-0018

CERTIFICATE OF SERVICE

I certify that the foregoing Expedited RCRA Settlement Agreement was sent this day in the following manner to the addressees:


Copy hand delivered to  
Attorney for Complainant:

Leslie Humphrey  
Associate Regional Counsel  
Office of Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Robert A. Housewright, Owner  
Rogers Post & Lumber Co.  
286 HWY M  
Steelville, Missouri 65565

Dated: 12/10/03

  
Kathy Robinson  
Regional Hearing Clerk